

REMARKS

Request for Continued Examination:

A request for continued examination is filed concurrently with this response. Withdrawal of the finality of the office action mailed June 4, 2003, and entry and consideration of the present amendment, pursuant to 37 CFR § 1.114(d), are requested.

General:

Claims 1-20 were pending in this application at the time of the final Office Action. Claims 1-7, 9, 11, 13-17 and 19 stand rejected. Claims 12, 18 and 20 are objected to. Claims 8 and 10 are listed as rejected in the Office Action summary, but no ground of rejection is stated in the Action. Claims 8 and 10 recite substantially the same feature as claim 18. As discussed in the course of a telephone interview with the examiner on June 13, 2003, it is believed that claims 8 and 10 define allowable subject matter for the same reason as claim 18, and should merely have been objected to as dependent from a rejected base claim.

Claims 1, 2, 3, 7-10, 12, 13, 15 and 18-20 have been amended herein. Claims 4-6 and 17 have been canceled. Claims 21-24 are new. Claims 1-3, 7-16 and 18-24 are pending in the application after the present amendment. No new matter has been added..

35 U.S.C. § 102:

Claims 1-3 and 15-16 stand rejected as anticipated by Muyskens. All of these claims have been made dependent from claim 9, against which this rejection was not raised, or from claim 21, which incorporates all of the features of claim 9. This rejection is therefore believed to now be moot.

Claims 1-7, 9, 11, 13-17 and 19 stand rejected as anticipated by Shuert. The examiner asserts that each of Shuert's sockets "comprises a plurality of flexible ribs (12i, 12c) projecting inwardly (12c) and outwardly (12i) ... from the internal side wall of the well." This is not correct. The feature 12c in Shuert is not a rib projecting inwardly from the internal side wall, it is the side wall. See col. 3, lines 10-11. Further, the periphery of the legs 12b is defined entirely by the side wall 12c and the outwardly projecting ribs 12i. The features 12i, 12c cannot reasonably be regarded as "ribs projecting inwardly and

outwardly” because there would then be no wall for them to project from. Thus, Shuert does not disclose or suggest a well with inwardly projecting ribs.

Claim 9 recites “a plurality of flexible ribs ... adapted to deform in response to the engagement with the foot of the article.” Shuert discloses a structure in which “ribs 14k are intermeshed with ribs 12i to form a rigid twin sheet construction for the lower region of each leg.” Col. 4, lines 24-26. The examiner argues that “plastic is flexible” and therefore there is no difference between applicants’ “flexible” ribs and Shuert’s “rigid” ribs.

Claims must be given their broadest *reasonable* interpretation. MPEP § 2111, emphasis added. It is not reasonable to interpret a claim in a way that simply ignores the entire clause “flexible ribs ... adapted to deform” on the ground that absolute rigidity is impossible. The presence of that clause must be construed as requiring a substantial degree of flexibility and deformability, beyond what is inescapable in a “rigid” structure.

The words of a claim must also be given their plain meaning. MPEP § 2111.01. It is not in accordance with the plain meaning of common English words to equate a structure described as “flexible” with a structure described as “rigid.”

Further, the entire teaching of Shuert is directed to producing a rigid structure. There is nothing in Shuert that would suggest to a person of ordinary skill in the art to construct a well with flexible, rather than rigid, ribs.

The difference in the claim language over the reference cited is significant because “flexible ribs ... adapted to deform in response to the engagement with the foot” allow for (1) tolerance, if the dimensions of the article being shipped do not exactly match those of the base, and (2) for cushioning of the foot of the article against jolts or impacts to the base. Shuert’s rigid sockets would not provide the advantages of the claimed structure, and there is no suggestion to modify Shuert’s pallet to provide the advantages that flow from the claimed structure.

For all of the above reasons, it is respectfully submitted that the present invention, as now claimed in claim 1, is novel and non-obvious over Shuert. Claims 1-3, 7-8, 11, 13 and 14 are dependent from claim 1 and, without prejudice to their individual merits, are also novel and non-obvious for the same reasons as claim 1.

Claim 21 corresponds to claim 9, amended to recite that the flexibility of the ribs serves “to grip the foot of the appliance in the socket to maintain the appliance and the socket together.” The basis for this amendment is found in paragraph [0008] at page 3, lines

22-23 of the text as filed. Claim 22 corresponds to claim 9, amended to recite that the ribs are fins, and that they deflect sideways when they deform. The basis for this amendment is found in paragraph [0031] at page 7, lines 28-29. These amendments do not raise new issues, but merely make more explicit the distinction between Shuert and the present invention (that was already present in substance in claim 9). Shuert's structure is deliberately made rigid, and has no more flexibility than is inescapable in the nature of the materials that Shuert uses. The ribs of the present invention are deliberately flexible, and deform in a manner that produces a useful effect. That effect, and the structure that gives rise to it, are not present in and are contrary to the teaching of Shuert.

It is therefore believed that the present invention, as now claimed in claims 21 and 22, is new and non-obvious over Shuert.

Claims 15, 16 and 19 are now dependent from claim 21. New claims 23 and 24 also depend from this claim 21. Without prejudice to their individual merits, these dependent claims are believed to be novel and non-obvious for the same reasons as claim 21.

Allowable subject matter:

Claims 8, 10, 12, 18 and 20 have been re-written in independent form and are believed to be allowable.


Conclusion:

In view of the foregoing, reconsideration of the examiner's rejections and objections, and an early notice of allowance of claims 1-3, 7-16, and 18-24, is earnestly solicited.

Respectfully submitted,

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